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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,839	10/08/2003	Paul G. McKinnon		7125
24987	7590	01/27/2005		EXAMINER
MARCUS G THEODORE, PC 466 SOUTH 500 EAST SALT LAKE CITY, UT 84102			YEAGLEY, DANIEL S	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/681,839	MCKINNON, PAUL G.
	Examiner Daniel Yeagley	Art Unit 3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 October 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2,4,6 and 8-11 is/are rejected.
 7) Claim(s) 3,5 and 7 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 08 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 10/8/03.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following:
 - a. Figure 1, two leader lines with arrows; one next to the set valve "48" and the second below open end "20" both lack numerals associated with these depicted elements.
 - b. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore:
 - i. the "sliding tubular extender slideably attached about the ram" as claimed in claim 4, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
 - ii. the "pressurized reservoir 42 structured to collect and remove foam from the internal reservoir 24" as claimed in claim 9, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
 - c. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:
 - i. reference characters "12", "28" and "26" in figure 1 have all been used to designate the tubular ram.
 - ii. reference character "16" in figure 1 has been used to designate both a first tube and the tube from the valve.
 - d. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- i. Numeral "41" cited on page 8.
- ii. Numeral "36" cited on page 9.

e. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

- a. The amended specification sheet "i.e.; unmarked copy of the appended specification sheet Page "3" should be remarked Page --4--, not page 3 as amended.
- b. Page 7, the brief description of figure 3 has been excluded.

- c. Page 8, line 11, first tube "22" should be changed to numeral --16--.
- d. Page 9, line 6, pressurized reservoir "43" should be changed to numeral --42--.
- e. Page 9, line 19, set valve "34" should be changed to numeral --48--.
- f. Page 8, last line and line 12, numeral "34" have been used to cite both a "fill port valve" and a "fill duct".
- g. Page 8, line 4 and page 9, lines 7 and 11, numerals "13" have been used to cite both a "lever arm" and a "bicycle seat".
- h. Appropriate corrections are required.

Claim Rejections - 35 USC § 112

- 3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- 4. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a ram 26 slideably attached about the first tube 16 which may be moved and locked to provide a desired length extension of the ram with respect to the first tube to elevate the seat. However, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The disclosure failed to clearly disclose a ram that includes a sliding tubular extender slideably attached about the ram that may be moved and locked to provide a desired length extension about the ram as claimed; as best understood.

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5. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants' disclosure failed to show or describe any foam collection structure or how the pressurized reservoir is structured to collect and remove such foam from the internal reservoir.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2, 4,6 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Regarding claims 2 and 6, the terms "its" are considered indefinite.

b. Regarding claims 4 and 11 the terms "it" are considered indefinite.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Zurfluh et al '555.

Zurfluh shows an adjustable air cushion bicycle seat hydraulic ram system mounted within a seat post of a bicycle frame having a hollow ram 20 comprising an open end with one end attached to a bicycle seat 16, an internal bicycle frame reservoir that has an open end secured to the seat post which is sized to accommodate the open end of the ram which is slideably sealed in the internal bicycle frame reservoir open end that creates an enclosed pressurized liquid/air column within the internal bicycle frame reservoir (figure 3) such that the pressurized reservoir is sized to hold sufficient liquid to fill the interior of the ram when fully extended (column 3), and wherein the hydraulic ram system includes a valve 27 or 26 (figure 1) that include walls defining channels in communication and located between the internal bicycle fame reservoir as broadly claimed (figure 3) and includes an adjustable pressurized air/liquid reservoir either chamber 24 or chamber 25 having a filling means at valves 26 or 27 to selectively fill the air/liquid reservoir and such that the valve 27 adjusts the height, volume, and pressure of the air and liquid column within the internal bicycle fame reservoir to form a desired air cushion within the ram to provide a desired ride cushion as claimed and further shows a sliding tubular extender 15 slideably attached about the ram such that the extender; as best understood, may be moved and locked to the ram that provides a desired length extension to the ram to elevate the seat to a desired height (column 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zurfluh et al '555 in view of Ahlers et al 820.

Zurfluh shows an adjustable air cushion bicycle seat hydraulic (fluid) ram system mounted within a seat post of a bicycle frame having a hollow ram with an internal bicycle frame reservoir that creates an enclosed pressurized liquid/air column within the internal bicycle frame reservoir (figure 3) which is capable of being selectively filled by a valve means that adjusts the height, volume, and pressure of the air and liquid column within the internal bicycle fame reservoir to form a desired air cushion to provide a desired ride cushion as claimed but lacked the air/liquid reservoir being structured to collect and remove foam from the internal reservoir as best understood and failed to disclose a liquid being a lubricating oil with fibers as claimed.

Ahlers discloses a pressurized fluid system that teaches the feature of utilizing a structure to collect and remove foam from an internal reservoir of a pressurized system in order to eliminate any foam and liquid residue which would impair the quiet rise of the liquid in the container in order to prevent disquieting in the liquid and hinder the required filling height in the container (column 1 through column 2, line 12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a liquid such as a hydraulic fluid (lubricating oil) with additives such as fibers which are old and well known characteristics in the industry for maintaining viscosity over a broad temperature range and to minimize and repair leakage in a pressurized mechanical fluid system and would have been obvious to one of ordinary skill in the art to have further

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modified the pressurized fluid system of Zurfluh adjustable air cushion bicycle seat hydraulic (fluid) ram system with a means to eliminate any foam residue which would impair the quiet rise of the liquid in the container (ram) in order to provide a quiet rise of the fluid in the ram and to maintain the required filling height in the container (ram) as taught by Ahlers.

Allowable Subject Matter

6. Claims 3, 5 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 2, 6 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Thompson '186, Tajima et al '740, Johnsen '170 and Knapp '974 show various adjustable air cushion bicycle seat ram systems.

Hale '887 and 369 and McKinnon '039 show various adjustable cushion seat ram systems

Gill '696 shows an adjustable cushioned bicycle seat ram system have a knee type element connected to the frame and seat post.

Wheeler, Jr. '069 discloses a fluid system having means for collecting and removing foam from the system.

Bysath '045 and Ginsburgh et al '285 disclose a fluid-sealing compound in a pressurized system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is **703 - 305 - 0838**. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D Morris can be reached on **703 - 308 - 0629**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

In the near future; because of a pending move of the examining corps to a new campus, the examiner and SPE telephone numbers will change to **571 - 272 - 6655** and **571 - 272 - 6651**; respectively.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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